



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/559,826

12/06/2005

Yasuhiko Otsubo

960/197

3639

23838

7590

07/14/2006

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

EXAMINER

NGUYEN, TU MINH

ART UNIT

PAPER NUMBER

3748

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/559.826

Applicant(s)

OTSUBO ET AL.

Examiner

Tu M. Nguyen

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 20051206.
- 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____.

DETAILED ACTION

1. An Applicant's Preliminary Amendment filed on December 6, 2005 has been entered. Claims 1-10 have been amended; and claim 11 has been added. Overall, claims 1-11 are pending in this application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 5-8, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawashima et al. (U.S. Patent 6,851,258) in view of Tashiro et al. (U.S. Patent 6,622,480).

Re claims 1, 7, and 11, as shown in Figures 1, 4, 5, and 8-11, Kawashima et al. disclose an exhaust purifying apparatus and an exhaust gas purifying method for an internal combustion engine, the apparatus comprising:

- an estimation unit (see Figure 8) that estimates an accumulation amount of particulate matter trapped about a catalyst (41) in an exhaust system based on a pressure loss across the catalyst, and
- a control unit (31),

Art Unit: 3748

wherein, when the pressure loss is equal to or more than a permissible value (step S13 with YES answer), the control unit executes PM elimination control (step S15) for supplying unburned fuel component to the catalyst to increase the temperature of the catalyst and burning the trapped particulate matter (see lines 52-62 of column 13), and

wherein, when execution of the PM elimination control becomes possible (step S41 with NO answer, step S45 with YES answer, and step S46) after suspension of the control (step 42 with YES answer, step S43 with NO answer, and step S44), the control unit resumes the PM elimination control even if the accumulation amount of particulate matter about the catalyst is less than the permissible value (see Figures 5, 9, and 10 and line 23 of column 9 to line 67 of column 10).

Kawashima et al., however, fail to disclose that instead of the pressure loss, the accumulation amount is used to initiate PM elimination control; and that the estimated accumulation amount is set to zero at the completion of the PM elimination control.

As shown in Figures 1 and 8, Tashiro et al. disclose a method to control the regeneration of a particulate filter (4). As depicted as step S21 in Figure 8, Tashiro et al. teach that it is conventional in the art to estimate an accumulation amount (PMs) of particulate matter in the filter and when PMs is greater than or equal to a threshold value (PMmax), a PM elimination control is initiated. Also in step S36, Tashiro et al. also teach that the estimated accumulation amount is set to zero at the completion of the PM elimination control. It would have been obvious to one having ordinary skill in the art at the time of the invention was made, to have utilized the teaching by Tashiro et al. in the apparatus and method of Kawashima et al., since

Art Unit: 3748

the use thereof would have been routinely practiced by those with ordinary skill in the art to control a regeneration step of a particulate filter.

Re claims 2 and 8, in the modified apparatus and method of Kawashima et al., when resuming the PM elimination control, the smaller the accumulation amount, the shorter the time for execution of the PM elimination control is set by the apparatus (see for example, Figure 9).

Re claims 5 and 10, in the modified apparatus and method of Kawashima et al., the apparatus discretely increases the temperature of the catalyst after resuming the PM elimination control, as clearly shown in Figure 9.

Re claim 6, the modified apparatus of Kawashima et al.:

- burns unburned fuel collected on the catalyst in an early stage of the increase in the catalyst temperature (lines 52-62 of column 13); and
- further increases the catalyst temperature thereafter, thereby burning particulate matter collected on the catalyst.

4. Claims 3-4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawashima et al. in view of Tashiro et al. as applied to claims 1 and 7, respectively, above, and further in view of Schaller et al. (U.S. Patent 6,948,311).

The modified apparatus and method of Kawashima et al. disclose the invention as cited above, however, fail to disclose that at a final stage of the PM elimination control when the estimated accumulation amount is slightly more than zero, the apparatus executes burn-up control, in which performance and stopping of concentrated intermittent fuel addition to a section of the exhaust system that is upstream of the catalyst are repeated a predetermined number of times.

As shown in Figure 1, Schaller et al. disclose a method to control the regeneration of a particulate filter (115b). As illustrated in Figure 3, Schaller et al. teach that it is conventional in the art to intermittently inject a fuel into an exhaust stream ahead of the filter at a final stage (third phase) of a particulate matter elimination control when an accumulation amount of particulate matter in the filter is slightly more than zero in order to maintain the filter at a desired temperature range (also see the Abstract and claims 1 and 4). It would have been obvious to one having ordinary skill in the art at the time of the invention was made, to have utilized the teaching by Schaller et al. in the modified apparatus and method of Kawashima et al., since the use thereof would have been routinely practiced by those with ordinary skill in the art to prevent excessive temperature rise in a filter during its regeneration.

Prior Art

5. The IDS (PTO-1449) filed on December 6, 2005 has been considered. An initialized copy is attached hereto.
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of four patents: Ono et al. (U.S. Patent 6,438,948), Carberry et al. (6,497,095), Moraal et al. (U.S. Patent 6,574,956), and Ohtake et al. (U.S. Patent 6,931,842) further disclose a state of the art.

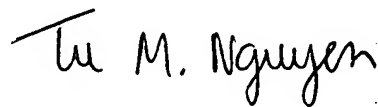
Art Unit: 3748

Communication

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Tu Nguyen whose telephone number is (571) 272-4862.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas E. Denion, can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TMN

Tu M. Nguyen

July 8, 2006

Primary Examiner

Art Unit 3748